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In re Application of IDE et al
U.S. Application No.: 09/509,768
Int. Application No.: PCT/JP99/04790
Int. Filing Date: 03 September 1999
Attorney Docket No.: 501.38383X00
For: DYNAMO-ELECTRIC MACHINE

DECISION

This is in response to the papers filed 31 March 2000, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 03 September 1999, applicant filed international application PCT/JP99/04790. A copy of the international application was communicated to the USPTO from the International Bureau on 15 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 13 October 1999, prior to the expiration of nineteen months from the filing date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 March 2002 (03 March 2002 was a Sunday).

On 31 March 2000, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a declaration executed by seven of the eight joint inventors. The declaration is also executed by an heiress of inventor Mitsunori Yamashina, who according to the declaration is deceased.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

In the present case, the declaration filed 31 March 2000 is signed by an heiress of Mitsunori Yamashina. The declaration is not acceptable because there is no indication that Yoko Yamashina is the sole heir of deceased inventor. That is, there may be other heirs who are also required to sign the declaration.

Applicant is advised that the submission of a declaration executed by the heir(s) of a deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed, and thus the heir(s) is/are signing as the legal representative of the estate. If this interpretation is incorrect, applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42" No petition fee is required. Extensions of time are available pursuant to 37 CFR 1.136.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.


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